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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,520	07/02/2003	Viktors Berstis	AUS920030320US1	5248

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EXAMINER	
ST CYR, DANIEL	

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/612,520	BERSTIS, VIKTORS	
	Examiner	Art Unit	
	Daniel St.Cyr	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 May 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) *14 and 15* is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 6, 7, and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Broadhurst, US Patent No. 6,705,532.

Broadhurst discloses a signal sequencing control means comprising: a circuit 2 having a first control line 4 and three further lines 6, 8, 10; when the voltage in control line 4 moves from a low condition to a high condition, a timed sequence of signals is initiated in the further lines 6, 8, 10 to enable the circuit; a first logic gate 14 has an output defined by control line 4 and is enabled via diode 16; a resistor 18 and capacitor 20 provides a time delay before a second logic gate 22 of the sequence is enabled; a resistor 24 and capacitor 26 provides a time delay before the third logic gate 28 of the sequence is enabled; and a resistor 30 and capacitor 32 provides a time delay before the fourth logic gate 34 of the sequence is enabled, line 4 is the output from gate 14 which then controls an electronic switch which provides the power to the smart card., when the voltage in control line 4 moves from a high condition to a low condition, the timed sequence is reversed and the circuit is disabled. This is a result of voltage passing through diode 36, which disables the fourth gate 34. The combination of resistor 30 and capacitor 26 then disable the third gate 28 after a timed delay. The combination of resistor 24 and capacitor

20 then disable the second gate 22 after a timed delay and finally the combination of resistor 18 and capacitor 38 then disable the first gate 14 after a timed delay. The system of Broadhurst shows how the device is enable through programming and also shows how the same device is disable after a time period when the programmed timed is expired. The structure of said device is capable of performing all the method steps and the functional steps of the system/device as set forth in these claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 3-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadhurst in view of Lie, US Patent No. 4,730,285. The teachings of Broadhurst have been discussed above.

Broadhurst fails to disclose or fairly suggests destroying a portion of the device when the device is exposed to a power source.

Lie discloses an individual parking meter comprising: storage means 1; a timing means 2; a display means 3; a switch means 4; etc., wherein the meter is self-destructed (short-circuit) (i.e. exposing the device to unrestricted high power) after the parking time expires . (see col. 3, lines 26-29; figures 1, 2).

In view of Lie's teaching, it would have been obvious for a person of ordinary skill in the time the invention was made to provide an alternating means for manufacturing the electronic

device of Broadhurst. Such modification would provide more cost effective products by eliminating maintenance cost. Therefore, it would have been an obvious extension as taught by Broadhurst.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11F.3d 1046, 29 USPQZd 2010 (Fed. Cir. 1993)., In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985)., In re Uan Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA1982)., In re Vogelî 422 F.2d 438, 164 USPQ 619 (CCPA 1970)',and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994 a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1 and 6-11 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/703,340, 09/703,334, 09/703,335, and 09/703,344. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant application performs the same function as the claims of the copending applications. For instant in claim 1 of the instant application and in claim 1 of the 09/703,340, the applicant claims:

i)" A method for expiring a device containing a time cell, the method comprising: performing a programming operation, wherein the sets a predetermined time period for the time cell; discharging a stored electrostatic charge . . .; reading a state of the time cell; generating

signal . . .; and in response to the signal indicating that the predetermined time period has elapsed, expiring the device." Wherein the '340 application, the applicant claims:

ii)" An horological device comprising: a time cell, wherein the time cell has a substantially discharged state before a programming operation and has a controlled discharge state after the programming operation, and wherein the time cell transitions after the programming operation from the controlled discharge state to the substantially discharged state within a predetermined time period after the programming operation; and reading means for reading a state of the time cell using conductive leads connected to the time cell."

Thus, in respect to above discussions, it would have been obvious to an artisan at the time the invention was made to use the method of claims 1 and 4 of the '403 application as a general teaching for the device of the instant application, to perform the same function as claimed in the present invention. The instant claims obviously encompass the claimed invention of the '403 application.

The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from the claims in a first paten. IN re Vogel, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R. & 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C>FR> &1.78(d).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

7. Claims 14 and 15 are allowed over the prior art.

Response to Arguments

8. Applicant's arguments filed 5/31/05 have been fully considered but they are not persuasive. (see examiner remarks).

REMARKS:

With regard to the interview conducted May 31, 2005, the specifics of the interview are not being presented in the applicant response.

In response to the applicant's argument that Broadhurst fails to disclose the limitation of claim 1, the examiner respectfully disagrees. The system of Broadhurst applies to electronic device, such as smart card (serving as a time cell), charging (programming) the smart for a specific duration, then disable the card after the time has expired. Such structure anticipates the method steps of claim 1.

In response to the general argument that the prior art does not teach the limitations in the claims 1, 2, 6, 7, and 9-13, the examiner respectfully disagrees. The rejection above illustrates how the system disables a charged electronic device, wherein the device is programmed before being operational. This system anticipates the limitations of the claims.

In response to the applicant' argument regarding the double patent rejection, it has been address above in the rejection. The applicants' arguments are not persuasive. Refer to the rejection above.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

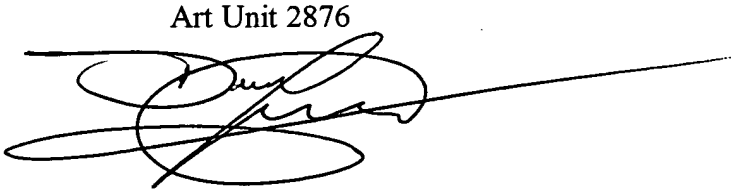
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr
Primary Examiner
Art Unit 2876



DS
August 5, 2005